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## PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Confirmation No.: 3395

Olav TIRKKONEN et al.

Art Unit: 2618

Application No.: 10/632,089

Examiner: Duc M. Nguyen

Filed: August 1, 2003

Attorney Dkt. No.: 059643.00238

For: POWER ALLOCATION IN A COMMUNICATION SYSTEM

### PETITION TO WITHDRAW ABANDONMENT

#### MAILSTOP: PETITION

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

11/07/2008 JADD01 00000034 10632089

01 FC:1452

540.00 OP

November 6, 2008

Sir:

Applicants respectfully petition that the improper holding of abandonment of the above-referenced patent application be withdrawn, and prosecution reinstated. Applicants respectfully submit that the abandonment of this application, which was recently brought to Applicants' attention by the mailing of a Notice of Abandonment dated October 8, 2008, was in error and request that the abandonment be withdrawn and the previously filed Request for Continued Examination (RCE) and Submission be considered. The purported abandonment, as discussed below, was apparently due to a loss or mishandling of a Request for Continued Examination (RCE) and Submission that was timely filed in the United States Patent & Trademark Office on September 25, 2008.

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Applicants filed a Notice of Appeal and Pre-Appeal Brief Request for Review in the present application on December 20, 2006. A Notice of Panel Decision from Pre-Appeal Brief was issued on January 23, 2007. Applicants submitted an Appeal Brief on February 23, 2007. Subsequently, a Decision by the Board of Patent Appeals and Interferences was issued on July 31, 2008. Thus, the period for taking subsequent action expired on September 30, 2008. However, Applicants properly and timely filed a Request for Continued Examination (RCE) and Submission on September 25, 2008, in response to the Decision by the Board of Patent Appeals and Interference. A copy of the RCE and Submission, and the postcard receipt date-stamped by the Patent and Trademark Office to acknowledge receipt of the Submission on September 25, 2008 are enclosed herewith.

As such, Applicants submit that a Request for Continued Examination (RCE) and Submission were timely filed and that this abandonment is improper. Therefore, it is respectfully petitioned that the abandonment be withdrawn.

A copy of the Request for Continued Examination Transmittal (RCE) and Submission Under 37 CFR § 1.114 filed on September 25, 2008, copy of the check previously filed, and copy of the postcard receipt date-stamped by the Patent and Trademark Office to acknowledge receipt of said reply on said date, and the appropriate fees, are submitted herewith in support of the withdrawal of the abandonment of the application. Accordingly, Applicants respectfully request that the Request for Continued Examination (RCE) and Submission be entered and considered.

Withdrawal of the holding of abandonment and prompt favorable action on the merits is respectfully requested.

Enclosed is a check in the amount of Five Hundred Forty Dollars (\$540.00) to cover the cost of the petition. In the event that this check is found to be insufficient, or if any additional fees are due with respect to the filing of this paper, please charge Counsel's Deposit Account Number 50-2222 referencing Attorney Docket No. 059643.00238. Since, however, this petition is necessitated due to an error on the part of the United States Patent & Trademark Office (specifically an internal mail handling error), a refund in the amount of Five Hundred Forty Dollars (\$540.00) is respectfully requested.

Respectfully submitted,



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Enclosures: Check No. 19934  
Copy of Request for Continued Examination (RCE)  
Copy of Response Under 37 CFR § 1.114  
Copy of Check No. 19692  
Copy of postcard date-stamped receipt on September 25, 2008